

Extending Deeming Periods

One way to limit the eligibility of legal immigrants is to permanently increase the deeming period for AFDC, SSI, and the Food Stamp program, during which the income and resources of both legal immigrants and their sponsors are considered in determining eligibility for welfare. The Administration's plan (H.R. 4605/S. 2224), introduced in the 103rd Congress, would extend the deeming period for those programs to five years after an immigrant's entry into the United States. (The plan has other provisions, too, as explained below.)

CBO estimates that the reductions in federal outlays for SSI from extending the deeming period would be \$560 million over the 1997-2000 period. For food stamps and AFDC, the savings would be \$175 million and \$60 million, respectively. Since most immigrants cannot become citizens during the five years in which the income of their sponsor is being deemed, the reductions in SSI, food stamps, and AFDC expenditures could not be significantly offset by an increase in the rate at which immigrants became citizens.

An alternative version of this proposal would extend the deeming period until sponsored immigrants became citizens. CBO estimates that the reductions in federal outlays for SSI, food stamps, and the AFDC program resulting from that proposal would be, respectively, about \$4.1 billion, \$480 million, and \$145 million over the 1997-2000 period. Those estimates, however, would be affected by changes in the naturalization rate that could result from immigrants' becoming citizens in response to this change in policy.

These measures would increase the responsibility of sponsors for immigrants. That outcome in turn might dissuade potential sponsors from sponsoring immigrants who might be at risk of becoming public charges. Extending the deeming period of programs would also lessen cost shifting to the states, compared with eliminating the eligibility of legal immigrants altogether. In addition, in the case of the proposal that would enforce deeming until citizenship was obtained, that approach would reward immigrants who made a commitment to the United States by becoming a citizen.

Some opponents of extending deeming periods believe that these measures do not go far enough. Extensions, for no matter how long, would save less money than denying eligibility. Compared with the denial options, extending deeming periods would also dissuade fewer low-skilled workers from immigrating, promote less responsibility among sponsors, and, by continuing to foster dependence on the government, be a barrier to immigrants' full integration into the economy.

Denying Eligibility to Long-Term Legal Immigrants Whose Sponsors' Income Exceeds the Median Family Income

The Administration's welfare proposal in the 103rd Congress would also continue to deny eligibility after five years to sponsored immigrants if the sponsor's income exceeded the national family median income for families of similar size. In essence, that proposal is a mixture of extending deeming to five years and deeming until citizenship is obtained. Immigrants with sponsors who had income below the national median would be subject to deeming for five years; immigrants with sponsors whose income exceeded the median family income would be subject to deeming until they became citizens.

CBO estimates that eliminating eligibility for SSI for immigrants with sponsors whose income exceeds the national family median income, combined with permanently extending the deeming period to five years, would reduce federal outlays by \$2.3 billion over the 1996-2000 period. The savings from the other three programs over the same period would be \$600 million. Again, that estimate could change under different assumptions about how likely immigrants are to become citizens as a result of this shift in policy. Because older people are less likely than younger ones to become citizens, most of the savings would come from the SSI program rather than from the Food Stamp program or AFDC.

For several reasons, some people prefer this proposal to the one denying eligibility for all legal immigrants. First, it would lessen the potential for increasing poverty among immigrants since it would deny benefits only to those who had sponsors whose family income was above the national median. Second, by providing federal assistance to the legal immigrants who had the smallest amount of available resources, it would lessen any adverse impact on the states. Third, it would not increase the financial hardship of those sponsors and their families whose income was below the median.

Opponents of this proposal note its potential to reduce incentives to work. Because SSI, AFDC, and food stamps would be cut off completely when a sponsor's family income exceeded the median income, some sponsors might reduce the amount they worked so that their family members who were immigrants could receive benefits. That group, however, would probably be small. Working less to qualify for benefits might seem an attractive option only for families who were very close to the median. Reinforcing that judgment is the fact that many immigrants, whose sponsors are not their spouses or parents, could still qualify for Medicaid regardless of their sponsor's income, since in those cases their sponsor's income would not be deemed.

Making a Sponsor's Affidavit of Support a Legally Binding Pledge

The Commission on Immigration Reform has recommended making affidavits of support signed by financial sponsors of immigrants legally enforceable documents.⁶ They propose creating procedures that would allow states to recover support from sponsors who did not fulfill their financial responsibilities.

Changing the legal character of such affidavits would make a strong statement about the seriousness with which the United States views sponsors' responsibilities to immigrants. The length of time that the affidavit of support would be legally enforceable could be extended to coincide with the length of the deeming periods for welfare programs, if those periods were extended.

Opponents of making the affidavit of support legally enforceable claim that the reduction in spending it would bring would be minimal at best. Moreover, accrued savings would probably be offset by the costs associated with enforcing a legally binding affidavit of support. It is unclear how expensive and successful such enforcement would be.

Some proponents argue that the lack of savings is irrelevant and that the moral statement made by this measure is sufficient justification. Critics claim that if enforcing such a measure is not financially expedient, the measure would not be enforced and thus would not be a meaningful signal.

EFFECTS ON STATE AND LOCAL SPENDING OF ELIMINATING OR RESTRICTING ELIGIBILITY

Eliminating the eligibility of legal immigrants for federal welfare programs could increase or decrease state and local spending, depending on a variety of factors. Increased participation by legal immigrants in states' and localities' general assistance (GA) and general medical assistance (GMA) programs would boost expenditures for such immigrants by state and local governments. State and local spending for immigrants would be reduced, however, by eliminating the nonfederal shares of AFDC and Medicaid costs and the state supplemental payments to SSI that had been going to legal immigrants.

The net effects would vary significantly among the states. Under current law, many states, including those with large numbers of immigrants, might experience no increase in spending for legal immigrants, or might reduce their total spending. In fact, a preliminary analysis suggests that even in states with large immigrant populations, it is unclear how passage of H.R. 4, as introduced,

6. See Commission on Immigration Reform, *U.S. Immigration Policy: Restoring Credibility* (September 1994).

would affect total net state and local spending for legal immigrants. Moreover, the chances would increase that state and local governments would spend less if they curtailed their GA or GMA programs in response to such a change in federal law.

In some cases, however, state and local governments would be likely to spend more if eligibility of legal immigrants for federal welfare programs was eliminated. Costs would be higher if a state or locality had broad eligibility and high levels of benefits for its GA and GMA programs combined with low AFDC and Medicaid benefits, low payment shares in those programs, and low state supplemental payments for SSI. Under those circumstances, the increased cost of state and local programs could outweigh the decreased costs of participation in federal programs. A state with the opposite combination--namely, small GA and GMA programs but larger AFDC and Medicaid benefits as well as large state supplements to SSI--would be more likely to experience a decrease in costs. The separate effects on state versus local spending would differ among the states because the way state and local governments divide the cost of GA and GMA programs varies widely.

Effects on Cash Assistance

The net effect on state and local cash assistance of eliminating the eligibility of legal immigrants for federal welfare programs would vary among the states. States and localities with GA programs would experience a rise in expenditures for those programs. States with supplemental payments to SSI would recoup at least some of that spending. In addition, all of the states would spend less for their AFDC programs, as would some localities that are required by their state governments to contribute to the nonfederal share of AFDC payments.

For illustrative purposes, the sections that follow examine in more detail three states--California, New York, and Illinois--that have relatively large numbers of legal immigrants receiving benefits. Texas and Florida, the other two states with the most legal immigrants receiving benefits, do not have statewide GA programs or state supplemental payments for SSI.

General Assistance Programs. State and local expenditures for legal immigrants would increase most in states and localities with GA programs that provide benefits to low-income people who do not qualify for federally funded programs. Eligibility requirements and benefits of GA programs vary significantly among states and localities having such programs.

California law requires all counties to have a GA program. Those programs, called General Relief, are funded and administered by the individual counties subject to statewide eligibility rules. In Los Angeles County, for example, all needy people (except for illegal aliens) who do not qualify for federally funded cash assistance programs can receive GA benefits; the average monthly expenditure per recipient in July 1994 was \$198. For all California counties, the average monthly expenditure per recipient was \$222.

The GA programs in Illinois are administered by local governments, except for the city of Chicago, in which the GA program is administered for the city by the state. In most localities, the program is financed from local funds, although some jurisdictions receive state funds if a required local tax is insufficient to cover the program's costs.

Illinois has GA programs for people awaiting determination of their eligibility for SSI and for families not qualifying for AFDC, provided they are legal residents. In 1994, people in the first group received payments ranging from \$144 to \$154 per month. Monthly payments for a mother with two children ranged from \$349 to \$377, or \$116 to \$126 per recipient. Since eligibility requirements are usually stricter for families seeking general assistance than for families wanting AFDC, only a portion of the people cut from the AFDC program in Illinois could apply successfully for state relief.

New York's GA program is jointly administered and funded by the state and the counties. The state sets eligibility rules and benefit levels that vary depending on the heating costs in a recipient's county of residence. In 1994, recipients received the difference between their gross income minus a fixed amount (usually \$90) and the sum of the statewide grant and the local shelter allowance. The statewide grant for a family of four was about \$376, and the local shelter allowances ranged from \$210 to \$449. The limit on cash assets that is a requirement for reciprocity is the same as for AFDC.

Most states and localities with GA programs do not consider the income of sponsors in determining eligibility. California, however, subjects spouses' income to a deeming period during an immigrant's first three years in the country but only if the sponsors are actually willing to pay the money they promised in their affidavits of support. In fact, in California, if sponsors withhold support during the deeming period for federally funded programs, immigrants are allowed to apply to GA programs.

CBO estimates that under H.R. 4, GA payments would be \$4.5 billion higher in California, New York, and Illinois from 1997 through 2000. (In fact, California's GA program would approximately triple in size relative to its expected spending under current law.) CBO developed its figures by using

administrative data from the three states to estimate how many legal immigrants would be denied AFDC and SSI benefits if H.R. 4 was enacted. Administrative records indicate that immigrants who would be affected by H.R. 4 have very small amounts of outside income and assets, making a large majority of them eligible for the GA program. CBO estimated how many of those people would qualify for general assistance in their home state and assumed that roughly 90 percent of the people dropped from SSI and AFDC would participate in their state's GA program. The average GA payment in a state was then used to determine by how much those new qualifiers would increase the cost of the programs. Under those assumptions, legal immigrants dropped from the SSI program in those states would receive \$2.4 billion, and former AFDC recipients would receive \$2 billion, during the 1997-2000 period. CBO estimates that those jurisdictions would spend an additional \$440 million in administering benefits over the same period.

Although CBO assumed that states and localities would not alter their GA programs in response to the enactment of H.R. 4, the magnitude of the GA expansions combined with the current political climate could lead states and localities to scale back their GA programs. If eligibility for GA programs became more restrictive or benefit levels decreased, or if a smaller-than-expected number of newly eligible legal immigrants applied for benefits, the increase in GA payments from enacting H.R. 4 would be less than CBO has estimated.

State Supplements to SSI. Most states provide a supplement to people receiving federal SSI payments, but localities do not. Supplements are intended to meet needs that are not covered by the federal program, and they vary by state. Supplements are directly tied to federal SSI eligibility. If legal immigrants were removed from the SSI program, states would not have to pay them supplements.

Applicants qualifying for federal SSI benefits in California automatically qualify for supplemental payments, which vary according to the living arrangements of the recipient. For an individual in 1994, they ranged from \$12 per month for people residing in a Medicaid facility to over \$300 per month for people receiving care in their home. Elderly people who lived independently and had their own cooking facilities received supplements of \$157 per month. The average monthly payment in August 1994 was \$168.

In Illinois, a supplement is paid to every SSI recipient. Supplements in that state equal the difference between the monthly SSI benefit plus other income and a state-defined level of income maintenance, which is determined individually. The average monthly payment in July 1994 was \$57.

New York pays a supplement to all SSI recipients except those in certain group residences. As in California, payment levels depend on living arrangements. For an individual recipient, payments in 1994 ranged from \$5 per month for a person residing in a Medicaid facility to almost \$500 for someone living in certain types of congregate care facilities. The average monthly payment in 1994 was \$77.

CBO estimates that California, New York, and Illinois would save \$1.8 billion from reduced state supplemental payments for SSI over the 1997-2000 period. Using administrative data, CBO estimated the number of SSI recipients who would no longer be covered under H.R. 4 in each of the four years. Multiplying that number by the average state supplement paid to legal immigrants in those states produced the estimate of \$1.8 billion. The savings from eliminating state supplements to SSI for legal immigrants would accrue to the states, not to localities.

AFDC Payments. CBO also estimates that the state and local governments of California, New York, and Illinois would pay about \$1.3 billion less in AFDC between 1997 and 2000 if H.R. 4 was enacted.⁷ That estimate was calculated by multiplying the nonfederal share of AFDC expenses by the expected reduction in benefits. Since some families receiving AFDC are composed of both citizens and legal immigrants, not every legal immigrant's loss of eligibility would result in one fewer AFDC case. However, the benefits going to families with legal immigrants would be reduced because legal immigrants would no longer be included in the determination of benefits.

Net Effect on Cash Assistance. Combining the extra GA expenditures for benefits and administration with the savings from state supplemental payments for SSI and lowered costs of AFDC would lead to a net spending increase of \$1.8 billion in the 1997-2000 period for California, New York, and Illinois if H.R. 4 was enacted as introduced. Because state supplements to SSI are typically less, on average, than GA payments, states' savings from eliminating supplemental SSI payments to legal immigrants, if they were made ineligible, would be more than offset if those same noncitizens transferred to GA programs. The fact that some legal immigrants who were dropped from SSI would not qualify for GA programs in their states keeps costs from rising even further. As noted earlier, however, the increased costs of GA programs are typically shared by states and localities, whereas the savings from reduced state supplemental payments for SSI accrue only to the states.

7. In California and New York, localities pay some of the benefits and administrative costs of AFDC; Illinois pays all of those costs.

The net \$1.8 billion increase in state and local costs does not include increases in other programs that might result from H.R. 4, such as foster care, whose costs are estimated to increase by \$360 million over the same period. Moreover, this estimate does not include effects on health expenditures (discussed below), nor does it factor in state policy changes that the enactment of H.R. 4 might bring.

Effects on State and Local Health Expenditures

The effects on state and local governments of eliminating the eligibility of legal immigrants for Medicaid are unclear. Some states could have lower expenditures for health care, but others could pay more. States would not be obligated to pay their share of immigrants' Medicaid costs except for emergency service. If states with GMA programs did not change their eligibility requirements or benefit levels, many immigrants dropped from the Medicaid program would probably be eligible for those programs. Such states would pay the full cost of the GMA programs, but in some cases those costs would be lower than the states' costs for Medicaid because the benefit levels for many GMA programs are lower and the programs in many instances are less comprehensive. Also, long-term care services are not included in many states' medical assistance programs. Nevertheless, a number of states with GMA programs provide coverage that is the same or similar to the coverage available through their Medicaid programs. Those states could pay more because they would no longer receive federal matching payments under Medicaid for legal immigrants.

Complicating any attempts to estimate savings and costs for the states is the great uncertainty that exists about future benefit levels, coverage, and eligibility requirements for GMA programs. Not only is the health care sector complex and changing rapidly, but in addition, some states with generous GMA benefits might opt to scale them back.

Being dropped from the Medicaid program would probably lessen the use of health care services by legal immigrants. At present, legal immigrants who participate in AFDC and SSI receive Medicaid cards and are thus aware that providers will treat them. In contrast, many people who qualify for GMA programs do not apply in advance and therefore do not receive proof of coverage; instead, they are determined to be eligible for medical assistance when they seek treatment from a provider. Therefore, individuals who would not be Medicaid cash beneficiaries if H.R. 4 was enacted would probably seek less treatment after its passage. In other words, their tendency to seek treatment would be similar to that of people who are uninsured, which would result in fewer services being provided. That tendency is a particular worry of

public health officials, who fear that decreased treatment in the early stages of infectious diseases, such as tuberculosis, could pose a health risk not only to those immigrants but to the general population.

Eliminating immigrants' Medicaid eligibility could affect health expenditures by local governments more than it affected state spending. Legal immigrants dropped from the Medicaid program would most likely seek treatment from public hospitals and other local health facilities. Since many public hospitals are funded at the local level, those costs generally are not paid by states. In fact, states recently have been shifting the financial responsibility for the health care of their indigent population not only to the federal government but to local governments as well. At the same time, federal money for community health centers and migrant health centers could no longer be used to treat legal immigrants under H.R. 4.

Restricting State and Local Welfare Payments for Immigrants

Some proponents of restricting eligibility have argued that it is possible to construct legislation that would enable the states and localities not to pay benefits to legal immigrants at all. Under the Administration's proposal in the 103rd Congress, the Congress would delegate authority to the states and local governments to modify their assistance programs in a way that would make legal immigrants who were ineligible for federal assistance ineligible for state assistance as well. Some question exists, however, about the constitutionality of the federal government's delegating its power to regulate immigrants. Under the Immigration Reform and Control Act of 1986, the Congress delegated to the states the power to set eligibility requirements for noncitizens for participation in social programs, but that provision of IRCA has never been challenged in court and may or may not be upheld.⁸

Some proponents of extending the deeming periods for SSI and AFDC argue that doing so would have less of an adverse financial effect on states than would eliminating the eligibility of legal immigrants for welfare altogether. In California, there is evidence that an increase in applications to its GA programs resulting from the temporary extension of the SSI deeming period from three to five years does not occur until after sponsored citizens' affidavits of support have expired (after three years). That apparent hesitance to apply for assistance until after the affidavit's expiration leads some analysts to believe that increasing both the deeming periods and the length of time covered by the affidavit (possibly until a person gains citizenship) might significantly lessen the

8. See L. Eig, "Whether Congress May Authorize the States to Deny State-Funded Public Benefits to Legal Aliens" (Congressional Research Service, March 25, 1994).

increased spending for welfare benefits for the legal immigrant population at the state and local level that might result if federal eligibility for legal immigrants was eliminated.